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CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 9

Introduced by Assembly Member Ammiano
(Principal coauthor: Assembly Member Yamada)
(Coauthors: Assembly Members Allen, Buchanan, Gatto, Gordon,
Hall, Ma, John A. Pérez, V. Manuel Pérez, and Skinner)
(Coauthors: Senators Kehoe, Leno, and Yee)

December 6, 2010

An act to amend Sections 234, 234.1, 234.2, and 234.3 of, and to add ~~Sections 234.4 and~~ *Section* 234.5 to, the Education Code, relating to pupil rights.

LEGISLATIVE COUNSEL'S DIGEST

AB 9, as amended, Ammiano. Pupil rights: bullying.

Existing law provides that it is the policy of the state to afford all persons in public schools, regardless of their disability, gender, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic that is contained in the definition of hate crimes, equal

rights and opportunities in the educational institutions of the state, and that it is the purpose of existing law to prohibit acts that are contrary to that policy and to provide remedies therefor. Existing law requires the State Department of Education to develop a model handout, posted on appropriate department Internet Web sites, describing the rights and obligations set forth in these provisions and the policies addressing bias-related discrimination and harassment in schools. Existing law also requires the department to monitor adherence to these provisions and, as part of its regular monitoring and review of local educational agencies, to assess whether local educational agencies have adopted a policy that prohibits discrimination and harassment and a process for receiving and investigating complaints of discrimination and harassment, as specified.

This bill would require the policy adopted by the local educational agencies to prohibit discrimination, harassment, intimidation, and bullying based on actual or perceived characteristics, as specified. The bill also would require the process for receiving and investigating complaints to include complaints of discrimination, harassment, intimidation, and bullying based on actual or perceived characteristics, as specified, and to include a requirement that school personnel who witness such acts take immediate steps to intervene when safe to do so, a timeline to investigate and resolve complaints, and an appeal process, as specified. The bill would make other conforming changes.

Because this bill would require local educational agencies to perform additional duties, this bill would impose a state-mandated local program.

~~The bill would state the intent of the Legislature that school districts provide grade-level appropriate, professional development training to school personnel to implement the school district policy that prohibits discrimination, harassment, intimidation, and bullying.~~

The bill would require the Superintendent of Public Instruction to post, and annually update, on his or her Internet Web site, and to provide to each school district, a list of statewide resources, including community-based organizations, that provide support to youth who have been subjected to school-based discrimination, harassment, intimidation, or bullying, and their families.

The bill would make its provisions operative on July 1, 2012.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. (a) The Legislature finds and declares that the~~
2 ~~State of California is committed to a safe and civil educational~~
3 ~~environment for all pupils, employees, parents and legal guardians,~~
4 ~~volunteers, and patrons that is free from discrimination, harassment,~~
5 ~~intimidation, or bullying.~~
6 ~~(b) The Legislature finds and declares that the intent of this act~~
7 ~~is to clarify and supplement the existing law on discrimination,~~
8 ~~harassment, intimidation, and bullying in public schools.~~
9 ~~(c) The Legislature finds and declares all of the following:~~
10 ~~(1) Pupils who are subjected to discrimination, harassment,~~
11 ~~intimidation, or bullying may suffer long-term social, emotional,~~
12 ~~and psychological harms.~~
13 ~~(2) The public policy of this state is to reduce and ultimately~~
14 ~~eliminate school-based discrimination, harassment, intimidation,~~
15 ~~and bullying.~~
16 ~~(3) The public policy of this state is to provide pupils with a~~
17 ~~safe school environment in which all pupils are included and~~
18 ~~respected and have an equal opportunity to participate in all school~~
19 ~~activities and events.~~
20 ~~(4) The most effective way to reduce discrimination, harassment,~~
21 ~~intimidation, and bullying is to create a schoolwide culture of~~
22 ~~inclusion and respect for differences.~~
23 ~~(5) The public policy of this state is to provide support for youth~~
24 ~~who are victimized by discrimination, harassment, intimidation,~~
25 ~~or bullying, and support for the families of those youth.~~
26 ~~(6) The public policy of this state is to ensure that laws and~~
27 ~~policies that prohibit discrimination, harassment, intimidation, and~~
28 ~~bullying are enforced evenhandedly and are not disproportionately~~
29 ~~applied to any class or group.~~

1 ~~SEC. 2.~~

2 ~~SECTION 1.~~ Section 234 of the Education Code is amended
3 to read:

4 234. (a) This article shall be known, and may be cited, as the
5 Safe Place to Learn Act.

6 (b) It is the policy of the State of California to ensure that all
7 local educational agencies continue to work to reduce
8 discrimination, harassment, violence, intimidation, and bullying.
9 It is further the policy of the state to improve pupil safety at schools
10 and the connections between pupils and supportive adults, schools,
11 and communities.

12 ~~SEC. 3.~~

13 ~~SEC. 2.~~ Section 234.1 of the Education Code is amended to
14 read:

15 234.1. The department, pursuant to subdivision (b) of Section
16 64001, shall monitor adherence to the requirements of Chapter 5.3
17 (commencing with Section 4900) of Division 1 of Title 5 of the
18 California Code of Regulations and Chapter 2 (commencing with
19 Section 200) as part of its regular monitoring and review of local
20 educational agencies, commonly known as the Categorical Program
21 Monitoring process. The department shall assess whether local
22 educational agencies have done all of the following:

23 (a) Adopted a policy that prohibits discrimination, harassment,
24 intimidation, and bullying based on the actual or perceived
25 characteristics set forth in Section 422.55 of the Penal Code and
26 Section 220, and disability, gender, gender identity, gender
27 expression, nationality, race or ethnicity, religion, sexual
28 orientation, or association with a person or group with one or more
29 of these actual or perceived characteristics. The policy shall include
30 a statement that the policy applies to all acts related to school
31 activity or school attendance occurring within a school under the
32 jurisdiction of the superintendent of the school district.

33 (b) Adopted a process for receiving and investigating complaints
34 of discrimination, harassment, intimidation, and bullying based
35 on any of the actual or perceived characteristics set forth in Section
36 422.55 of the Penal Code and Section 220, and disability, gender,
37 gender identity, gender expression, nationality, race or ethnicity,
38 religion, sexual orientation, or association with a person or group
39 with one or more of these actual or perceived characteristics. The

1 complaint process shall include, but not be limited to, all of the
2 following:

3 (1) A requirement that, if school personnel witness an act of
4 discrimination, harassment, intimidation, or bullying, he or she
5 shall take immediate steps to intervene when safe to do so.

6 (2) A timeline to investigate and resolve complaints of
7 discrimination, harassment, intimidation, or bullying that shall be
8 followed by all schools under the jurisdiction of the school district.

9 (3) An appeal process afforded to the complainant should he or
10 she disagree with the resolution of a complaint filed pursuant to
11 this section.

12 (4) All forms developed pursuant to this process shall be
13 translated pursuant to Section 48985.

14 (c) Publicized antidiscrimination, antiharassment,
15 anti-intimidation, and antibullying policies adopted pursuant to
16 subdivision (a), including information about the manner in which
17 to file a complaint, to pupils, parents, employees, agents of the
18 governing board, and the general public. The information shall be
19 translated pursuant to Section 48985. ~~A school district shall, at a~~
20 ~~minimum, do all of the following to comply with this subdivision:~~

21 ~~(1) Publish the policy in all parent-student handbooks issued in~~
22 ~~the school district and include a statement about where pupils and~~
23 ~~parents can obtain a complaint form.~~

24 ~~(2) Publish the policy and information about where a complaint~~
25 ~~form can be obtained on the Internet Web site of the school district~~
26 ~~and all individual school Internet Web sites, as applicable.~~

27 (d) Posted the policy established pursuant to subdivision (a) in
28 all schools and offices, including staff lounges and pupil
29 government meeting rooms.

30 (e) Maintained documentation of complaints and their resolution
31 for a minimum of one review cycle.

32 (f) Ensured that complainants are protected from retaliation and
33 that the identity of a complainant alleging discrimination,
34 harassment, intimidation, or bullying remains confidential, as
35 appropriate.

36 (g) Identified a responsible local educational agency officer for
37 ensuring ~~district or office~~ *school district or county office of*
38 *education* compliance with the requirements of Chapter 5.3
39 (commencing with Section 4900) of Division 1 of Title 5 of the

1 California Code of Regulations and Chapter 2 (commencing with
2 Section 200).

3 ~~SEC. 4.~~

4 *SEC. 3.* Section 234.2 of the Education Code is amended to
5 read:

6 234.2. The department shall display current information, and
7 periodically update information, on curricula and other resources
8 that specifically address bias-related discrimination, harassment,
9 intimidation, and bullying based on any of the actual or perceived
10 characteristics set forth in Section 422.55 of the Penal Code and
11 Section 220 on the California Healthy Kids Resource Center
12 Internet Web site and other appropriate department Internet Web
13 sites where information about discrimination, harassment,
14 intimidation, and bullying is posted.

15 ~~SEC. 5.~~

16 *SEC. 4.* Section 234.3 of the Education Code is amended to
17 read:

18 234.3. The department shall develop a model handout
19 describing the rights and obligations set forth in Sections 200, 201,
20 and 220 and the policies addressing bias-related discrimination,
21 harassment, intimidation, and bullying in schools. This model
22 handout shall be posted on appropriate department Internet Web
23 sites.

24 ~~SEC. 6. Section 234.4 is added to the Education Code, to read:~~

25 ~~234.4. It is the intent of the Legislature that school districts~~
26 ~~provide grade-level appropriate, professional development training~~
27 ~~to school personnel to implement the school district policy that~~
28 ~~prohibits discrimination, harassment, intimidation, and bullying~~
29 ~~adopted pursuant to subdivision (a) of Section 234.1.~~

30 ~~SEC. 7.~~

31 *SEC. 5.* Section 234.5 is added to the Education Code, to read:

32 234.5. The Superintendent shall post, and annually update, on
33 his or her Internet Web site and provide to each school district a
34 list of statewide resources, including community-based
35 organizations, that provide support to youth who have been
36 subjected to school-based discrimination, harassment, intimidation,
37 or bullying, and their families.

38 ~~SEC. 8.~~

39 *SEC. 6.* This act shall not be construed to limit pupil rights to
40 free speech as protected by the United States Constitution, the

1 California Constitution, Sections 48907 and 48950 of the Education
2 Code, and other applicable law.

3 ~~SEC. 9.~~

4 *SEC. 7.* This act shall not be construed to require an exhaustion
5 of any administrative complaint process before civil law remedies
6 may be pursued.

7 ~~SEC. 10.~~

8 *SEC. 8.* This act shall become operative on July 1, 2012.

9 ~~SEC. 11.~~

10 *SEC. 9.* If the Commission on State Mandates determines that
11 this act contains costs mandated by the state, reimbursement to
12 local agencies and school districts for those costs shall be made
13 pursuant to Part 7 (commencing with Section 17500) of Division
14 4 of Title 2 of the Government Code.